IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 11TH JULY 2006 / 20TH ASHADHA,1928

WP(C).No. 14917 of 2006(A)

PETITIONER:

PLANT LIPIDS (P) LTD.,
KADAYIRUPPU, KOLENCHERRY, ERNAKULAM,
REPRESENTED BY ITS DIRECTOR MARIAM GEORGE.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:

---

1. KERALA STATE ELECTRICITY BOARD,
VAIDHYUDI BHAVAN, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD,
VYTTILA, ERNAKULAM.

3. DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE, ERNAKULAM.

4. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, KOLENCHERRY.

BY ADV. SRI.JOSE J.MATHEIKEL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/07/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.14917 OF 2006

Dated this the 11th day of July, 2006

JUDGMENT

By the impugned Ext.P10, the competent authority in the Electricity Board has refused to sanction additional power allocation to the petitioner, though it was found that it is technically sound and feasible. The refusal to grant additional power allocation is only on account of its view in the third paragraph of Ext.P10 that any dues appearing in its books are to be cleared for considering the application for fresh power allocation/additional power allocation, unless such dues are quashed by orders of appropriate authorities or courts.

2. The two demands or dues that can be treated to be outstanding, if at all, are those pending consideration before this Court in W.P(C).18170/03 and W.P(C).3486/06. In the former, there is an interlocutory order in the form of Ext.P7, whereby all further proceedings and enforcement of the impugned bill were stayed. In the latter, by order dated 6.2.2006, there was an interim direction that the bank guarantees provided by the petitioner shall not be encashed. By the force of the said

interim orders, it is inappropriate for the Electricity Board to treat the outstandings as dues, on the basis of which, it could take a decision to refuse power allocation. Once a demand made by the Electricity Board is stayed by this Court, it has to take the status of the demand under suspended animation and such a demand cannot be the foundation for refusal of a demand for power allocation.

3. Under the aforesaid circumstances, without prejudice to the contentions of the Electricity Board in the above two writ petitions, and retaining liability of the petitioner to satisfy any demand arising out of the final disposal of the said two petitions, for which the petitioner, through its counsel, undertakes in open Court, this writ petition is disposed of quashing Ext.P10 and directing that the competent authority in the Board will take final decision within a period of two weeks from the date of receipt of a copy of this judgment, as regards power allocation, without reference to the dues pending consideration before this Court in W.P(C).Nos.18170/03 and 3486/06.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

==========

THOTTATHIL B. RADHAKRISHNAN, J

L.A.A.NO. OF 200

JUDGMENT

11th JULY, 2006.

==========